

United States District Court Southern District of Texas

Case Number: 05-651

ATTACHMENT

Description:

- State Court Record State Court Record Continued
 Administrative Record
 Document continued - Part _____ of _____

Exhibit to: _____
number(s) / letter(s) Ex. D-Continued

Other: _____

ORAL DEPOSITION OF TIMOTHY JAMES POOLE

1 A About two months.

2 Q Now, were you required to put a cast on it or
3 something after surgery?

4 A They had a soft cast on it, yeah, about a
5 month.

6 Q Okay. Did anybody tell you what caused the
7 cyst to be there?

8 A He said it might have been some genetic or --
9 he didn't say why. He just found it during an MRI.

10 Q Why did you have to go in and take it out
11 surgically?

12 A I don't know. Ask the doctor.

13 Q Was it something that was growing? Was it
14 something that was causing you a problem in your hand?

15 A It was causing me a problem in the hand, yeah.

16 Q What kind of problems was it causing?

17 A It was making, I guess, a popping noise in the
18 wrist.

19 Q So when you would move your wrist, you could --

20 A Yeah.

21 Q -- hear it or feel it or something?

22 A Yeah.

23 Q Have you had any hernia repairs?

24 A Yes.

25 Q How many hernia repairs have you had?

ORAL DEPOSITION OF TIMOTHY JAMES POOLE

1 A Two.

2 Q And when were they?

3 A First one was back in '89 or '90. Second one
4 was like in 2000 or '99. I can't remember exactly what
5 year.

6 Q Were they at the same location?

7 A Yeah, both on the right side.

8 Q Okay. Did the first surgery fail later on or
9 was it a new --

10 A I'm sorry. I really can't tell you. I'm not
11 sure.

12 Q Okay. Do you know what caused you to have the
13 hernias?

14 A First one would be I guess not lifting
properly, being stupid. The second one, I have no idea.

16 Q Were any of the hernias or the right hand
17 surgery that we just spoke of, were any of those
18 workers' comp related or work related?

19 A Trigger finger was.

20 Q What happened with the trigger finger?

21 A When I was work at Grant Pride Co, I was moving
22 pipes, where we have our racks. And so the guy was
23 helping me and I guess one slipped and I tried to catch
24 it. It smashed these two fingers.

25 Q On your right hand?

ORAL DEPOSITION OF TIMOTHY JAMES POOLE

1 A Yes.

2 Q So your index finger and your long finger?

3 A Yeah.

4 Q And what kind of treatment did you have for
5 those fingers?

6 A They did a trigger finger release, I guess is
7 what it was. When it smashed it, it pinched the nerve
8 or something in there, and he cut me I guess right in
9 here and released the tension of the nerves.

10 Q Okay. Do you have full use of your fingers
11 now?

12 A Yeah.

13 Q Do you have any problems with those fingers?

14 A No.

15 Q Have you had any other surgeries besides the
16 one we've talked about?

17 A No.

18 Q Have you been into the hospital -- besides the
19 time you went to the emergency room for this fall on the
20 Kirby barge, have you been into the hospital for any
21 other problems besides the ACL surgeries, the carpal
22 tunnel surgeries, the hernia surgeries and the right
23 hand surgeries?

24 A As far as the hospital, no.

25 Q Have you been --

ORAL DEPOSITION OF TIMOTHY JAMES POOLE

1 A Emergency room, yeah.

2 Q You've been to the emergency room?

3 A Couple times with stomach ulcers, yeah.

4 Q Do you still have stomach problems?

5 A Sometimes.

6 Q Have the doctors figured out what your problems
7 are, stomachwise or intestinalwise?

8 A My diet, the way I eat, stress, chewing
9 tobacco.

10 Q Because you've been to the doctor a number of
11 times complaining about your stomach, abdominal pain,
12 stuff like that. Right?

13 A Yeah.

14 Q Has that all been related to the same thing?

15 A Basically, yeah.

16 Q Okay. And what have the doctors said is wrong
17 with you in that regard?

18 A Mostly they say just the way I eat, carry on
19 with my -- told me to stay away from greasy food, stuff
20 like that, quit dipping.

21 Q When is the last time you had a bout with your
22 stomach, problems with it?

23 A Might have been at least six months.

24 Q Did you have to have any surgery done or any
25 exploratory procedures or anything like that?

ORAL DEPOSITION OF TIMOTHY JAMES POOLE

1 A Well, they did a colonoscopy and the other one,
2 whatever is called, when they went down the throat.
3 That was it.

4 Q Did they find anything wrong with either of
5 those tests?

6 A Not really, no. They said the main thing they
7 found was hemorrhoids. But other than that, no.

8 Q Did they take care of them at the time?

9 A No. They said it wasn't that bad to mess with
10 them.

11 Q Okay. When you were working with Kirby, were
12 you ever required to participate in the fire drills that
13 a boat had?

14 A No.

15 Q Were you ever required to participate in a
16 general quarters drill that a boat had?

17 A No.

18 Q Were you ever assigned a station by a boat for
19 a general quarters drill or event?

20 A No.

21 Q Were you ever assigned a fire station by a
22 boat?

23 A No.

24 Q When you were working at Kirby -- let's see,
25 all your work at Kirby was after 9-11-01. Right?

ORAL DEPOSITION OF TIMOTHY JAMES POOLE

1 A Yes.

2 Q And while you were at Kirby, did you have the
3 opportunity to go onboard some of the boats?

4 A Yeah.

5 Q When you went onboard the boats --

6 MR. BAXLEY: When you're saying "boats,"
7 what do you mean by that?

8 MR. SULLIVAN: I am talking about boats
9 being tugs --

10 MR. BAXLEY: Tugs.

11 MR. SULLIVAN: -- the boat itself. And
12 when I am talking about a barge, I mean the barge
13 itself.

14 MR. BAXLEY: Thanks.

15 Q (BY MR. SULLIVAN) Do you understand what I am
16 talking about?

17 A Yes, sir.

18 Q When you go on a boat while you were working
19 with Kirby, were you required to sign in on their
20 visitor --

21 A Yes.

22 Q -- book?

23 Were you required to show I.D. --

24 A Yes, sir, company I.D.

25 Q -- or some type of I.D. --

ORAL DEPOSITION OF TIMOTHY JAMES POOLE

1 A Yes.

2 Q -- and sign the --

3 A Yes.

4 Q -- visitor book?

5 A Yeah.

6 Q Okay. The accident -- the injury that we're
7 here about, did it occur on July 27th, 2005?

8 A Yes.

9 Q Tell me about that day. Well, first of all,
10 what time did it happen?

11 A About 5:00 in the morning.

12 Q And were you at a job for Kirby?

13 A Yes, sir.

14 Q When did you start that job?

15 A I believe I got there about 10:30 that night,
16 the night before.

17 Q 10:30 the night before?

18 A Yes, sir.

19 Q About July 26th?

20 A Yes, sir.

21 Q How were you told to go do this job?

22 A I got a call through the pager.

23 Q Okay. And how does that work? How do you --
24 how did you get assignments at Kirby?

25 A They paged you on the pager, pager system, call

ORAL DEPOSITION OF TIMOTHY JAMES POOLE

1 out system.

2 Q Did you have certain days you were on call?

3 A I think the way our shifts work, you work
4 seven. You're off two.

5 Q You would be on call for seven days?

6 A Yes.

7 Q Then you would be off call for two days?

8 A Yes, sir.

9 Q During the days you were on call, were there
10 certain hours of the day --

11 A No.

12 Q -- that you would work?

13 A 24 hours. The way -- I guess they went by a
14 list. Depending where your name was on that list, that
15 day is what time you got called out.

16 Q And how many hours would you work during a
17 seven-day call period?

18 A I would work anywhere from 80 to 100 hours a
19 week.

20 Q For that 80 or 100 hours a week, how were you
21 paid?

22 A Hourly.

23 Q Now, were you -- did you get overtime?

24 A Yes, sir.

25 Q And if you worked on a holiday or a weekend or

ORAL DEPOSITION OF TIMOTHY JAMES POOLE

1 a Sunday, did you get more than overtime?

2 A Holiday pay but not on the weekends and Sunday,
3 no.

4 Q So if it was a holiday, you got holiday pay?

5 A Yes, sir.

6 Q And was holiday pay more than overtime?

7 A I think it was time and a half or double time.
8 I'm not really sure how they did it.

9 Q What was overtime?

10 A After 40 hours.

11 Q And was that time and a half?

12 A Yes, sir.

13 Q Could you pass on a job during your seven days?

14 A You could, yeah.

15 Q Did you ever have advanced notice of when you
16 were going to work, a day or two advance notice?

17 A Sometimes I did and sometimes I didn't. Most
18 of the time I didn't, no.

19 Q How much notice would you on average get?

20 A They give you two-hour notice.

21 Q Okay. And when you say they paged you, you
22 could be at home, at the grocery store, whatever, and
23 they just paged your pager?

24 A Yes.

25 Q And you're required to come out and go to work?

ORAL DEPOSITION OF TIMOTHY JAMES POOLE

1 A You're required to call them.

2 Q Okay.

3 A Then they'll send you out to the job.

4 Q So on this job, sometime on the 26th, you got
5 paged?

6 A Yes.

7 Q On the day of the 26th before this -- before
8 you got called out, did you have enough sleep?

9 A Actually, I think I was sleeping when I got
10 paged, yeah.

11 Q When you were called out to this job, were you
12 rested?

13 A Yes, sir.

14 Q You didn't feel there was anything physically
15 or mentally wrong with you that would cause you problems
16 with taking this job?

17 A No.

18 Q When you got paged, who did you call back on
19 the 26th?

20 A The dispatcher.

21 Q Okay. Do you remember who that was?

22 A Not on that day, no.

23 Q And what conversation did you have with the
24 dispatcher on that day?

25 A They told me about the job and told me what

ORAL DEPOSITION OF TIMOTHY JAMES POOLE

1 time to be there and stuff like that. And they asked if
2 we was rested, all that other stuff, like they always
3 do.

4 Q Okay. Do you remember what kind of job it was?

5 A I want to say it was -- can't remember if it
6 was loading or discharging. I can't remember which one
7 I was doing.

8 Q Now, are you called out for certain products or
9 do you do all types of products?

10 A I did all kinds.

11 Q Okay. Are there certain products that you
12 don't do?

13 A Chemical barges -- well, not chemical. Poison
14 barges, they had their set crew, people that been there
15 for years do that. But, no, I went to help them on
16 that; but, no, I don't do it by myself.

17 Q So on the 26th, you would have talked to
18 dispatch. He would have told you what the job was, I
19 guess?

20 A Yes, sir.

21 Q And I guess he would have told you where it
22 was?

23 A Yes, sir.

24 Q Would he also say this is when the job starts?

25 A He would say when it's supposed to arrive at

ORAL DEPOSITION OF TIMOTHY JAMES POOLE

1 dock.

2 Q What's supposed to arrive at the dock?

3 A The barge.

4 Q So do you meet the barge at the dock?

5 A Most the time, yeah.

6 Q Okay. On the 26th, on that night, did you get
7 to the dock before the barge or did the barge get there
8 before you?

9 A If I remember, I think we got there about the
10 same time.

11 Q What dock was it at?

12 A ITC in Deer Park.

13 Q Okay. Once you got to ITC in Deer Park and you
14 come through the ITC gate. Right?

15 A Yes, sir.

16 Q Well, how did you get to ITC in Deer Park?

17 A I drove my truck.

18 Q Okay. Is it your truck or a company truck?

19 A My truck.

20 Q Your truck?

21 A Yes, sir.

22 Q Do you get paid for mileage?

23 A Yes, sir.

24 Q So once you got to ITC in Deer Park and you
25 were able to park your truck -- well, let me ask you

ORAL DEPOSITION OF TIMOTHY JAMES POOLE

1 this: Do you have to carry equipment with you?

2 A Yes, sir.

3 Q What kind of equipment do you carry with you?

4 A You have to carry your tools for hooking and
5 unhooking the hoses, the fire extinguishers, your hard
6 hat, your lunch if you want something to eat or drink
7 while you're there, safety equipment that Kirby allows
8 you to carry.

9 Q Okay. So as a shoreside tankerman, you're
10 required to bring your own lunch with you and your own
11 water or Gatorade?

12 A Yes.

13 Q And you're also required to bring your own
14 tools?

15 A Yes.

16 Q When the barges -- in general, when the barges
17 arrive at the dock, do you assist in tying the barges
18 off?

19 A Sometimes.

20 Q How often would you say you do that?

21 A It all depends on what dock they're going to
22 because if you're there and you help them -- they throw
23 the rope up to you and you help put them around the
24 dolphins or whatever, sometimes they hook them to where
25 you can't get them because the docks are so low in the

ORAL DEPOSITION OF TIMOTHY JAMES POOLE

1 water.

2 Q Is that something that you as a shoreside
3 tankerman are required to do or is that something --

4 A Something you do out of courtesy.

5 Q Out of courtesy. Do you remember what you did
6 with this particular barge?

7 A That was one of the docks where they had their
8 own preset ropes and stuff because they was too far
9 down.

10 Q Did you ever assist with securing the boat to
11 the barge or taking the wires and lines off the boat so
12 the boat can leave?

13 A I have sometimes, yeah.

14 Q How often would you do that?

15 A I really can't say.

16 Q One out of ten times or even that much?

17 A Probably about.

18 Q Probably about that?

19 A Yeah.

20 Q Again, was that something that you were
21 required to do or just as a courtesy to help other
22 people?

23 A Just a courtesy.

24 Q Could the boat order you to do that job?

25 A The captain could, yeah.

ORAL DEPOSITION OF TIMOTHY JAMES POOLE

1 Q Could the captain -- what could the captain
2 order you to do of any particular boat?

3 A I guess whatever he wanted to.

4 Q But as a tankerman, would he have control over
5 what you do?

6 A As long as he was still there and his crew was
7 still working on the barge, yes. But once they left,
8 no.

9 Q Could he order you to come chip or paint the
10 boat?

11 A No.

12 Q He couldn't order you to clean the boat or cook
13 food for the crew?

14 A No.

15 Q Anything like that?

16 A No.

17 Q Could he order you to start a transfer?

18 A No. I mean he could but mostly it was done
19 between with the dock -- between the dock and yourself.

20 Q You would be in control of the transfer?

21 A Yes.

22 Q And it wouldn't matter what the captain would
23 say; it would be your call?

24 A Yeah, basically.

25 Q When you first arrived at ITC and the barge is

ORAL DEPOSITION OF TIMOTHY JAMES POOLE

1 secured to the dock, did the boats -- the boat that
2 brought that barge in -- let me ask you this: How many
3 barges were brought in that day for you to work?

4 A Just one.

5 Q Did the boat stay with that barge?

6 A No.

7 Q Okay. Where did the boat go?

8 A The boat that run that barge there, I want to
9 say it was the O'Ryan, whatever, and their primary job
10 is to dock barges at ITC. So they probably went to go
11 get another barge to put on a different dock because ITC
12 got something like 12 docks there.

13 Q Now, when did you first get on the barge?

14 A I guess around 10:30, 11:00 o'clock. I'm
15 really not sure.

16 Q Was the boat still there when you got on the
17 barge?

18 A No.

19 Q The boat already been gone?

20 A They already docked and gone out.

21 Q Were there any crew members from that boat on
22 the barge when you got on?

23 A No.

24 Q Were there lights from the dock shining on the
25 barge?

ORAL DEPOSITION OF TIMOTHY JAMES POOLE

1 A Yeah.

2 Q Were there enough lights shining on the barge
3 for you to see what you were doing?

4 A Not really.

5 Q Were there additional lights available --

6 A Just use my flashlight.

7 Q Were there other lights on the dock available
8 that could have been turned on but weren't?

9 A No.

10 Q Did you talk to anybody on the dock about
11 needing more lights?

12 A No.

13 Q Before you got on -- before you got onto the
14 barge, did you realize that the lighting was kind of
15 suspect?

16 A I really didn't pay attention to it, no.

17 Q When did you first realize that you probably
18 could have used more lighting?

19 A Probably when you get down there, start doing
20 the barge inspection and see where all the dark spots
21 are, where all the light spots are.

22 Q When do you do a barge inspection?

23 A As soon as you get on the barge.

24 Q And do you walk the barge?

25 A Yes.

ORAL DEPOSITION OF TIMOTHY JAMES POOLE

1 Q And what are you looking for when you're
2 walking the barge?

3 A You're looking at the equipment, the drafts and
4 all that, whether there's any oil spots, the condition
5 of the barge, the paperwork, make sure it's up to date
6 by code.

7 Q When you were doing your barge inspection, did
8 you walk around the outside of the barge, on the deck of
9 the barge, on the outside deck of the barge?

10 A Yes, sir.

11 Q The barge that you were working on on July
12 27th, was it a raised trunk barge?

13 A Yes.

14 Q Okay. What does that mean?

15 A Gives them more room to put product in and it
16 also means instead of a single skin barge, it's probably
17 got voids in it.

18 Q A raised trunk, does that mean basically the
19 middle portion of the barge is raised up from the deck?

20 A Yes.

21 Q And are there walkways around this raised
22 portion?

23 A There's a walkway down the middle of them but
24 not on the outside of it, no.

25 Q Down on the -- if you have a raised trunk

ORAL DEPOSITION OF TIMOTHY JAMES POOLE

1 barge, are there walk areas on the main deck surrounding
2 the raised portion of the barge?

3 A You mean on the top part of it?

4 Q No, on the deck itself. Is there a deck area?

5 A Yeah, there's a little room that you walk where
6 the voids are at but usually about two foot, maybe three
7 foot at the most.

8 Q And then there's a walkway down the middle?

9 A Most time, yes, sir.

10 Q And on this barge, what kind of walkway was
11 that?

12 A Catwalk.

13 Q Okay. And is that catwalk made out of --
14 what's that catwalk made out of?

15 A I don't know how to explain it. Just a catwalk
16 that's got little holes cut through it going down the
17 center.

18 Q Is it diamond plate?

19 A No.

20 Q Is it kind of like a grating?

21 A I guess you can say kind of like a grating.

22 It's not cut long ways like most gradings are. It's got
23 little circles cut through it.

24 Q Okay. And is it pieces of metal or pieces of
25 grating that are placed on to a frame?

ORAL DEPOSITION OF TIMOTHY JAMES POOLE

1 A I think they're welded to the lip of the
2 highrise part, yeah.

3 Q Okay. Are there handrails on the walkway?

4 A No.

5 Q Why not?

6 A I don't know.

7 Q Do you have to get off of the walkway to go
8 check tank tops or gauge things?

9 A Yes, sir.

10 Q Okay. While you were doing your barge
11 inspection, did you walk down the walkway?

12 A Yes, sir.

13 Q Okay. Did you observe anything wrong with this
14 barge during your barge inspection?

15 A Just the way they have the valves located down
16 the middle of the walkway.

17 Q What do you mean by that?

18 A If you're walking to a No. 1's, they got the
19 one valve, then they got the black valve. They also got
20 enough room to where you can walk around it, the black
21 valve. Going back down to your 2's and 3's, same thing.
22 You got two valves here and then you got the black
23 valve. Only about this much room between the black
24 valve and the catwalk, then you have to step around the
25 ribs to walk around it.

ORAL DEPOSITION OF TIMOTHY JAMES POOLE

1 Q So you can't walk down the catwalk?

2 A No, not the way they got it fixed.

3 Q So you have to get off of the catwalk in order
4 to get around some valves?

5 A Yes, sir.

6 Q Okay. And in order to step off the catwalk,
7 how big of a step is it to the --

8 A Catwalk to the deck, about six inches.

9 Q Did you see any oil, water, or other slippery
10 substances around the catwalk or on the deck where you
11 would have to step off the catwalk?

12 A Not when I did my barge inspection. I didn't
13 pay that close attention to it, no.

14 Q That's something you would be looking for in
15 the barge inspection, though, wouldn't it? Oil on deck?

16 A Yeah.

17 Q If you would have seen oil on deck, would you
18 have notified someone of that?

19 A Yeah.

20 Q And did you have a reason to notify anybody
21 because of oil on deck on this barge?

22 A We had our pager system if we needed to notify
23 somebody.

24 Q Did you need to notify somebody that night
25 because of oil on deck?

ORAL DEPOSITION OF TIMOTHY JAMES POOLE

1 A No.

2 Q Now, after you completed your barge inspection
3 that night, what did you do?

4 A I went back up to the dock shack to fill out
5 the paperwork.

6 Q And what kind of paperwork would you fill out?

7 A The DOI.

8 Q And do you sign off on the DOI?

9 A Yes, sir.

10 Q Does the dockman sign off on the DOI as well?

11 A Yes, sir.

12 Q And does the DOI address lighting?

13 A Yes, sir.

14 Q Did you sign off on the lighting for this
15 transfer?

16 A Yes.

17 Q And is it your duty -- well, first of all, as a
18 tankerman, are you the one that's in charge of the
19 transfer?

20 A Yes, sir.

21 Q And is it your duty to make sure the transfer's
22 done safely?

23 A Yes, sir.

24 Q And if there's something on the DOI that you
25 feel is unsafe, you don't sign off on it, do you?

ORAL DEPOSITION OF TIMOTHY JAMES POOLE

1 A No, sir. You usually tell the dock man about
2 it first.

3 Q It's your duty as a tankerman that if something
4 is not safe, for you not to let it go?

5 A Sure.

6 Q And if you're in a situation where you believe
7 the lighting is unsafe, it's your duty not to start the
8 transfer?

9 A True.

10 Q What do you do -- what did you do after you
11 signed off on the DOI?

12 A Went back down to the barge.

13 Q And did what?

14 A Took the blind off so we can hook the hose up.

15 Q And did you then hook the hose up?

16 A Yes, sir.

17 Q And then you started your transfer?

18 A I believe we was still waiting on the
19 inspector. I'm not sure.

20 Q When the inspector came out, did he have any --
21 did you follow him around?

22 A Yes, sir.

23 Q Where did he inspect the barge from?

24 A He checked for draft marks and then he went and
25 gauged the tanks.

ORAL DEPOSITION OF TIMOTHY JAMES POOLE

1 Q And where do you gauge the tanks?

2 A At the gate. I'm not sure -- I can't remember
3 how this barge is laid out as far as the gauging points
4 go.

5 Q Okay. Do you remember the barge number
6 offhand?

7 A Kirby 11003.

8 Q Okay. Do you know where the gauge points are
9 on the 11003?

10 A I can't remember.

11 Q When you were with the inspector, did you have
12 the chance to walk down the center walkway?

13 A Yes, sir.

14 Q Did you have any problems walking down the
15 center walkway?

16 A No.

17 Q Did the inspector have any problems?

18 A Just when going down to valves -- the 2 and 3.
19 That's it.

20 Q And when you were with the inspector, you had
21 already been by the valves on 2 and 3?

22 A Yes.

23 Q You already knew you had to go around the
24 valves?

25 A Yes.

ORAL DEPOSITION OF TIMOTHY JAMES POOLE

1 Q When you -- did the inspector have any problem
2 going around those valves?

3 A He step on the deck and I told him to step back
4 up.

5 Q Did you warn him about --

6 A Yeah.

7 Q Did you have any problems getting around those
8 valves at that time?

9 A No.

10 Q Did you have any other problems walking on
11 the -- on this walkway during that time?

12 A No.

13 Q Once the inspector was done, what did you do?

14 A Then we got -- we started the transfer.

15 Q And once the transfer started, what do you do?

16 A I monitor the tanks with the level flow and
17 keep an eye on the drafts and stuff and monitor the
18 equipment, the pumps, make sure we ain't got no leaks or
19 nothing, same thing with the lines where we hook the
20 hose up and stuff.

21 Q And do you have to be walking the barge to
22 check all this stuff?

23 A Yes.

24 Q Do you walk the center walkway to check all
25 that?

ORAL DEPOSITION OF TIMOTHY JAMES POOLE

1 A Sometimes.

2 Q When did you fall?

3 A About 5:00 o'clock in the morning.

4 Q Was the transfer still going on?

5 A Yes, sir.

6 Q Okay. How did you fall?

7 A I was walking from bow to the stern, go down
8 the catwalk going around the 2's and 3's and going to
9 check on the tanks. I guess I stepped on that --
10 stepped on the edge of the catwalk going down to the
11 deck, lost my footing.

12 Q Okay. When you say you were walking from the
13 bow to the stern and you had to go around the valves of
14 2's and 3's -- there's two sets, one at 2 and one at 3?

15 A Yes, sir.

16 Q Did you fall at No. 2 or No. 3?

17 A No. 2.

18 Q And that is the one closest to the bow?

19 A Yes, sir.

20 Q So you hit the No. 2's first before you hit the
21 No. 3's?

22 A Yes, sir.

23 Q Okay. Now, as you're walking and you come up
24 to the No. 2's, was there anything different about the
25 catwalk at that time as opposed to earlier in the

ORAL DEPOSITION OF TIMOTHY JAMES POOLE

1 evening?

2 A Not that I can remember, no.

3 Q Okay. Now, when you were going to go around
4 the 2's, which way did you step off the catwalk, to your
5 left or to your right?

6 A To my right.

7 Q And as you stepped off to your right, did you
8 put your right foot off the catwalk first?

9 A I can't remember.

10 Q Okay. When you stepped off of the catwalk, how
11 did you trip? How did you fall?

12 A Lost my footing I guess from the edge of the
13 catwalk, and I just fell down.

14 Q Okay. Was there anything wrong with the
15 catwalk itself that caused you to fall or just the fact
16 you had to step off the catwalk?

17 A Just I had to step off it.

18 Q Did you fall because you didn't put your right
19 foot all the way over onto the deck?

20 A I'm not sure.

21 Q Okay. If your right foot got caught on the
22 side of the catwalk, if you would have moved your right
23 foot further away from the catwalk to put it on the
24 deck, would you have tripped or would you have fallen?

25 MR. BAXLEY: Objection; assumes facts not

ORAL DEPOSITION OF TIMOTHY JAMES POOLE

1 in evidence.

2 A I don't know.

3 Q (BY MR. SULLIVAN) Okay. So you fell.

4 Describe for me again how you fell.

5 A I was just walking from the bow to the stern
6 and I guess I lost my footing on the edge of the catwalk
7 and just fell down.

8 Q And did you lose your footing at that point
9 when you were going to step off of the catwalk onto the
10 deck to go around the valves?

11 A Yes, sir.

12 Q Were you in the process of stepping off the
13 catwalk when you fell?

14 A With my other foot, yeah.

15 Q Okay. Did you have your flashlight with you?

16 A Yes, sir.

17 Q Were you watching where you were putting your
18 feet or were you looking forward?

19 A I don't remember.

20 Q If you would have been looking down at where
21 your feet were, would you have seen that your feet were
22 on the edge of the catwalk or maybe hanging over the
23 catwalk?

24 A Possible. Like I said, I don't remember.

25 Q When you fell, how did you fall? Did you fall

ORAL DEPOSITION OF TIMOTHY JAMES POOLE

1 forward, to the side?

2 A To the right.

3 Q When you fell to the right, how did you catch
4 yourself?

5 A I put my hand out and caught myself on the
6 vapor line.

7 Q Did you fall all the way to the deck?

8 A No.

9 Q Which hand did you catch yourself with?

10 A Right hand.

11 Q Okay. And did you feel anything with your
12 right hand when you caught yourself?

13 A Yeah.

14 Q What did you feel?

15 A I felt pain because it snapped back.

16 Q Did you feel any popping or anything like that?

17 A I don't remember.

18 Q What did you do after you caught yourself?

19 A I got up, made sure everything was all right.

20 Q Did you fall to your knees or anything?

21 A I think I landed on my knees, yeah, because I
22 tried to catch myself so I wouldn't hit the tanks.

23 Q Okay. Did you hurt your knees in this fall?

24 A No.

25 Q Did you hurt your back or your neck in this

ORAL DEPOSITION OF TIMOTHY JAMES POOLE

1 fall?

2 A No.

3 Q Did you hurt your shoulders in this fall?

4 A It was pain in the shoulder, too, yeah.

5 Q Have you received any treatment for your
6 shoulders?

7 A It's therapy. That was it.

8 Q Do your shoulders bother you today?

9 A No.

10 Q Does your hand bother you today?

11 A Yes.

12 Q When -- after you fell, were you able to get
13 yourself back up right away?

14 A Yes.

15 Q And then what did you do?

16 A I checked my hand, you know, make sure it was
17 still moving and stuff, make sure I didn't break
18 nothing. And I can't remember what I did after that. I
19 don't know if I went back down, sat down, whatever or
20 called the office. I can't remember exactly what I did.

21 Q Did you finish the transfer on this barge?

22 A No.

23 Q Did you leave?

24 A Got relieved.

25 Q Did you get relieved because you asked for

ORAL DEPOSITION OF TIMOTHY JAMES POOLE

1 relief or did you get relief because your time was up?

2 A I got relieved because I told them I fell and
3 my wrist was hurting.

4 Q Who did you call to tell?

5 A I paged the office, the supervisor on call.

6 Q And did you notify anybody on a boat that you
7 hurt your --

8 A No. There was no boat around.

9 Q Did they take you to a doctor?

10 A Yes.

11 Q Where did they take you?

12 A They took me to San Jac in Baytown.

13 Q And did they -- what kind of treatment did the
14 hospital give you?

15 A They took x-rays and MRI's and I guess examined
16 my hand, however they do that.

17 Q What did they say?

18 A They said it was a sprain. They couldn't find
19 fractures, nothing like that. They said it was a bad
20 sprain, told me to go see another doctor to get a
21 follow-up.

22 Q And did you do that?

23 A Yes, sir.

24 Q What doctors did you go see?

25 A They sent me to the clinic off of 610.

ORAL DEPOSITION OF TIMOTHY JAMES POOLE

1 Q And what did that doctor say?

2 A He did an MRI and didn't find no fractures or
3 nothing, but he said it was badly sprained and wrapped
4 it up and put me on light duty, told me to take therapy.

5 Q Okay. Did the therapy help at all?

6 A I guess.

7 Q Well, did it help how your hand felt?

8 A When they put the heating stuff on it, yeah.
9 But as far as the exercise and stuff, it still hurts,
10 yes.

11 Q Were you able to -- after this fall, did your
12 hand not want to work? Were you able to move your hand
13 in all ways?

14 A I can move it but it hurts, yeah.

15 Q But your hand today doesn't affect your job,
16 does it?

17 A Yeah, it does.

18 Q Are you able to do all it requires of your job
19 today?

20 A Most of the time, yeah.

21 Q And you're never -- well, where are you working
22 at now?

23 A Houston Marine Service.

24 Q Are you working as a tankerman?

25 A Tankerman, slash, dock man.

ORAL DEPOSITION OF TIMOTHY JAMES POOLE

1 Q And there's never been an occasion at Houston
2 Marine that you've had to give up a job because of your
3 right hand, was there?

4 A No, but there's been times I use my left hand
5 more than I did my right hand.

Q There's never been a time when you've had to
turn down a job because of your right hand?

8 A No.

9 MR. BAXLEY: Take a break one second.

10 | (A recess was taken.)

11 Q (BY MR. SULLIVAN) Were you ever told that you
12 had reached maximum medical care or maximum medical
13 improvement by a doctor?

14 A No.

15 Q Did you see a guy named Dr. Gabel?

16 A Yeah.

17 Q Did he ever return you to work?

18 A Yeah.

19 Q Did he ever tell you there's not much else I
20 can do for you, something like that?

21 | A Basically.

22 Q What did he tell you?

23 A He said it's going to be discomfort and only
24 way to fix that is probably by surgery.

25 Q Did he say what kind of surgery he wanted to

ORAL DEPOSITION OF TIMOTHY JAMES POOLE

1 do?

2 A Going in there and remove some kind of tissue
3 or something.

4 Q Did he recommend it?

5 A I really -- that's hard to say because
6 sometimes it does and sometimes it don't.

7 Q Okay. Do you feel you need surgery?

8 A Sometimes, yeah.

9 Q At what times?

10 A When it's hurting, swelling up and it's
11 probably about, I don't know, about 70, 80 percent of
12 the time.

13 Q What does your hand today stop you from doing,
14 your right hand today and right wrist?

15 A As far as physically?

16 Q Yes. What does it stop you from doing that you
17 were able to do on January 26th, 2005?

18 A As far as workwise, not really much because you
19 don't sit there and open and close a valve, don't take
20 you that long. If I am going to start playing with my
21 kids, throwing balls, stuff like that, for a long period
22 of time, it starts to swell up and go back. On
23 short-term, it doesn't really affect me. On long-term,
24 it does. Depends on how long I use it.

25 Q Had you ever had problems with your wrist in

ORAL DEPOSITION OF TIMOTHY JAMES POOLE

1 the past with use, that it would swell up before this
2 accident?

3 A No.

4 Q What is a Kirby Logistics management tankerman
5 barge book?

6 A It's a book where you write down what you do on
7 the barges.

8 Q When did you first get a barge book?

9 A When you first started working there.

10 Q Is it something you have to buy or is it
11 something that --

12 A The company gives you.

13 Q And when you fill it up, what do you do with
14 it?

15 A You keep it for your own records and you get a
16 new one.

17 Q Okay. Does it go home with you or does it stay
18 on the barge?

19 A Goes with you.

20 Q What is a ready barge inspection?

21 A It's card that tells you -- basically gives you
22 an overview of how to inspect the barges.

23 Q What it's done for, the ready barge inspection?

24 A To inspect the barge.

25 Q Why is it done?